

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 133

Introduced by Connealy, 16; Preister, 5

Read first time January 6, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to taxation; to amend sections 77-2701 and
2 77-2701.04, Revised Statutes Supplement, 2004; to provide
3 a renewable energy sales tax credit for certain
4 electricity generators; to repeal the original sections;
5 to provide an operative date; and to declare an
6 emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Supplement,
2 2004, is amended to read:

3 77-2701. Sections 77-2701 to 77-27,135.01 and 77-27,222
4 and sections 3 to 8 of this act shall be known and may be cited as
5 the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.04, Revised Statutes Supplement,
7 2004, is amended to read:

8 77-2701.04. For purposes of sections 77-2701.04 to
9 77-2713 and sections 3 to 7 of this act, unless the context
10 otherwise requires, the definitions found in sections 77-2701.05 to
11 77-2701.45 and sections 3 to 5 of this act shall be used.

12 Sec. 3. Eligible renewable resources means resources
13 derived from wind, moving water, solar energy, geothermal energy,
14 biomass, fuel cells, landfill gases, or organic sources of methane
15 gas.

16 Sec. 4. Renewable energy facility includes any and all
17 property owned, used, operated, or useful for operation in the
18 generation or transmission of electricity produced by eligible
19 renewable resources.

20 Sec. 5. Eligible entity means any public power district
21 organized under Chapter 70, article 6, any rural public power
22 district organized under Chapter 70, article 8, any interlocal
23 agency organized under the Interlocal Cooperation Act, any agency
24 organized under the Municipal Cooperative Financing Act, any joint
25 authority under the Joint Public Power Authority Act, any electric
26 cooperative corporation organized under the Electric Cooperative
27 Corporation Act, any electric membership association, and any
28 municipality organized under the laws of this state.

1 Sec. 6. Sales and use taxes shall not be imposed on the
2 gross receipts from the sale, lease, or rental of, the construction
3 of, and the storage, use, or other consumption in this state by any
4 eligible entity of property used to generate or transmit
5 electricity produced from eligible renewable resources, including
6 any renewable energy facility.

7 Sec. 7. (1) Any eligible entity which generates
8 electricity from eligible renewable resources at a renewable energy
9 facility shall earn a renewable energy tax credit that may be
10 credited against the sales and use tax imposed by the Nebraska
11 Revenue Act of 1967. The credit shall be 1.80 cents for each
12 kilowatt-hour of electricity generated from eligible renewable
13 resources at a renewable energy facility. The credit may be earned
14 for production of electricity for twenty years after the date that
15 the renewable energy facility is placed in operation on or after
16 the effective date of this act. The credit amount shall be
17 adjusted on January 1 of each year by the change during the
18 previous year in the unadjusted Consumer Price Index for All Urban
19 Consumers published by the Federal Bureau of Labor Statistics.

20 (2) Any renewable energy tax credit earned but not used
21 in the tax year may be carried back as a credit against prior sales
22 and use tax liability for a period not exceeding three years and
23 may be carried forward as a credit against subsequent sales and use
24 tax liability for a period not exceeding ten years. The credit is
25 transferable for a period of ten years after it is earned. Any
26 person to whom a credit is transferred shall have only such rights
27 to claim and use the credit under the terms that would have applied
28 to the producer. This subsection shall not limit the ability of a

1 credit transferee to reduce the tax liability of the transferee,
2 regardless of the actual tax liability of the producer for the
3 relevant tax period. The producer and any subsequent transferees
4 shall jointly file a copy of a written transfer agreement with the
5 Department of Revenue within thirty days after the transfer. The
6 agreement shall contain the name, address, and taxpayer
7 identification number or social security number of the parties to
8 the transfer, the amount of the credit being transferred, the year
9 the credit was earned, and the tax year or years for which the
10 credit may be claimed.

11 (3) The Department of Revenue may adopt and promulgate
12 rules and regulations to permit verification of the validity and
13 timeliness of the renewable energy tax credit claimed on a tax
14 return pursuant to this section but shall not adopt and promulgate
15 any rule or regulation that unduly restricts or hinders the
16 transfer of a credit.

17 Sec. 8. This act becomes operative on July 1, 2005.

18 Sec. 9. Original sections 77-2701 and 77-2701.04,
19 Revised Statutes Supplement, 2004, are repealed.

20 Sec. 10. Since an emergency exists, this act takes
21 effect when passed and approved according to law.